



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,019	08/26/2003	Robert Gazda	1-2-0353.1US	3473
24374 7590 10/15/2007 VOLPE AND KOENIG, P.C. DEPT. ICC UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER SEYE, ABDOU K	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 10/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/648,019

Applicant(s)

GAZDA ET AL.

Examiner

Abdou Karim Seye

Art Unit

2194

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 31-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER
Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :04/30/2004, 05/12/2004, 12/21/2005/ 10/03/2006.

DETAILED ACTION

Response to Amendment

1. The amendment filed on August 03, 2007 has been received and entered. The applicant elected claims 1-14 and 31-35 and withdrew claims 15-30 and 36-47. The currently pending claims considered below are Claims 1-14 and 31-35.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 31 is non statutory. The claimed system is constructed of software program instructions. Thus, the claimed system comprising an interface with the operating environment, and operating system module and an interface with the target operating system is considered as software program containing machine-executable instructions, per se (and not associated with any physical structure). See MPEP 2106.01 - I: "...computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized...".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-14 and 31-35 are rejected under 35 U.S.C. 102(e) as being anticipated by **Wilkinson et al. (US 20020091800)**.

As to Claims 1, 31-33, Wilkinson teaches a method and system for exporting a software model to different operating systems, the method comprising:

providing a software model (Figure 1; paragraph 62);

providing a porting layer, the porting layer porting the software model to an operating environment (Figure 1; paragraph 61 and 63);

providing an operating environment, the operating environment common to all the different operating systems (Figure 1; paragraph 60); and

providing a plurality of operating system abstraction layers, each abstraction layer designed to abstract the operating environment to at least one targeted operating system (Figure 1; paragraph 54-62).

Art Unit: 2194

As to claim 2, Wilkinson teaches, wherein the at least one targeted operating system is a single operating system (Figure 1; paragraph 18).

As to claim 3, Wilkinson teaches, wherein the at least one targeted operating system is two operating systems and the method for exporting a software model in a wireless device, a first of the two operating systems is a system operating system and a second of the two operating systems is a communication operating system (Figure 1, paragraph 22; 60; 64).

As to claim 4, Wilkinson teaches, wherein the system operating system operates on an advanced reduced instruction set processor (RISC) and the communication operating system operates on a digital signal processor (DSP) (paragraph 13; 64;73).

As to claim 5, it's rejected for the same reasons claim 4 above.

As to claim 6, Wilkinson teaches, wherein the communication module has an associated shared memory for use in performing operations of code derived from the software model (Figure 1 :38; content server).

As to claim 7, Wilkinson teaches, wherein the at least one target operating system is a plurality of operating systems(Figure 1, paragraph 60).

Art Unit: 2194

As to claim 8, Wilkinson teaches, wherein the operating environment operates independently of processor boundaries (Figure 1, paragraph 27).

As to Claim 9, Wilkinson teaches, wherein the operating system abstraction layer defines the processor boundaries and facilitates communication across the processor boundaries (Figure 1, paragraph 19; 60).

As to claim 11, Wilkinson teaches, wherein the wireless communication device is a wireless transmit/receive unit (paragraph 64).

As to claims 12-14 and 34-35, they are rejected for the same reasons the claims above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Schaefer (US 20020174215 discloses an operating system abstraction and protecting layer.

Tavoletti et al. (US 20010027464) discloses an operating system abstraction interface for broadband terminal.

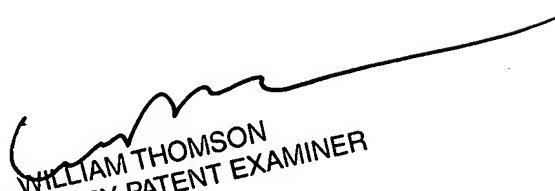
Tavoletti et al. (US 6721949) discloses kernel abstraction layer for digital television set-top box firmware.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

AKS
October 10, 2007


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER